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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2004 63989

BERNICE LENORA LOPEZ
16970 Colchester Way
Hacienda Heights, California 91745

A C C U S A T I O N

Physical Therapist Assistant License No.
AT 3456,

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (Board).
2. On or about April 19, 1994, the Board issued Physical Therapist Assistant License Number AT 3456 to Bernice Lenora Lopez (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2005, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code provides that:

The Board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

5. Section 2660 of the Code provides that:

The Board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

“ . . .

“(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction. . . .”

6. Section 2661 of the Code provides that:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The Board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

7. California Code of Regulations, Title 16, section 1399.20, provides that:

“For the purposes of denial, suspension or revocation of a license, pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Physical Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by the license or approval in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following:

“(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Physical Therapy Practice Act. . . .”

8. Section 2661.5, subdivision (a) of the Code provides that:

“ In any order issued in resolution of a disciplinary proceeding before the Board, the Board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the Board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.”

CAUSE FOR DISCIPLINE

(Conviction of a Crime)

9. Respondent is subject to disciplinary action under sections 2660, subdivision (d), and 2661 of the Code, and California Code of Regulations, Title 16, section 1399.20, subdivision (a), in that she was convicted of a crime substantially related to the qualifications, functions, or duties of a physical therapist assistant. The circumstances are as follows:

A. On or about October 27, 2004, in a criminal proceeding entitled *People v. Bernice Lenora Lopez*, in Superior Court, Los Angeles County, Case No. 4WH05651, respondent was convicted by a plea of nolo contendere to the crime of driving with .08% or higher blood alcohol, a violation of Vehicle Code section 23152, subdivision (b), a misdemeanor.

1 B. On or about October 27, 2004, respondent was placed on probation
2 for three years. She was ordered to pay fines of \$1,260.00 or serve 13 days in county jail,
3 complete a three month licensed first offender alcohol program, and her driving privilege
4 was restricted for 90 days.

5 C. The facts and circumstances surrounding this offense are as
6 follows:

7 On or about August 25, 2004, a Whittier police officer responded to a call
8 from dispatch that respondent needed the assistance of police to pick up her property at
9 her brother's house. The dispatcher advised the officer that respondent appeared to be
10 under the influence of alcohol. When the officer located respondent in her pickup truck,
11 she stated she had already handled the situation and was leaving. The officer had
12 difficulty understanding respondent who was slurring her words. The officer detected a
13 strong odor of alcohol on her breath, and observed that her eyes were bloodshot and
14 watery. When asked if she had anything to drink, respondent said she had a bottle of
15 beer. Respondent failed the field sobriety tests. The result of her blood test indicated her
16 blood alcohol level was .19%.

17 Respondent was arrested and charged with driving under the influence of
18 alcohol, a violation of Vehicle Code section 23152, subdivision (a), and driving with
19 .08% or higher blood alcohol, a violation of Vehicle Code section 23152, subdivision (b).

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1 PRAYER

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters
3 herein alleged, and that following the hearing, the Physical Therapy Board of California issue a
4 decision:

5 1. Revoking or suspending Physical Therapist Assistant License Number AT
6 3456 issued to respondent Bemice Lenora Lopez;

7 2. Ordering respondent to pay the Physical Therapy Board of California the
8 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
9 Professions Code section 2661.5;

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: November 14, 2005

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13 Original Signed By:
14 STEVEN K. HARTZELL
15 Executive Officer
16 Physical Therapy Board of California
17 State of California
18 Complainant

17 LA2005502334

18 Lopez Bernice accusation.wpd
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